

This letter describes drop-shipments and explains certificates of resale. See 86 Ill. Adm. Code 130.225 and 86 Ill. Adm. Code 130.1405. (This is a GIL.)

March 28, 2006

Dear Xxxxx:

This letter is in response to your letter dated March 7, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We respectfully request your advice on the sales/use tax implications in a third-party drop shipment scenario. Our client manufactures and sells capital equipment and supports such equipment with repair/replacement parts and services. Our client is registered to collect and remit taxes in your jurisdiction. In a third-party drop shipment scenario customers are not located or registered in your jurisdiction, but specify that our client ship directly to their customer, which is located in your jurisdiction (*i.e.*, the 'third-party'). In this scenario, two separate transactions occur, (1) the sale from our client to their out-of-state customer, and (2) the sale from the out-of-state customer to their customer located in your jurisdiction.

Ordinarily, in a sale for resale our client's customer would be able to provide our client with a valid resale/exemption certificate in lieu of remitting tax on the sale. In this third-party drop shipment scenario, however, our client's customer is not registered to collect/remit tax in your jurisdiction, and thus, cannot issue a resale/exemption certificate indicating a registration number with your jurisdiction. Nevertheless, the sale between the out-of-state customer and our client is a sale for resale. Our client's customer is able to provide our client with a resale certificate from their home state bearing their home state's tax registration number. Alternatively, our client's customer is able to provide our client with a resale certificate from your jurisdiction but indicating their home state's tax registration number.

In some cases, two other forms of documentation are available. The third-party located in your jurisdiction is sometimes able to provide documentation that they accrued/self-assessed tax on the items and remitted tax directly to your jurisdiction. Also, given the nature of the items our client sells, a manufacturing exemption (or some other exemption) is sometimes available for the third-party.

As an example, suppose our client has a customer located in Iowa who orders machinery from our client but specifies that shipment be made directly to their customer located in your jurisdiction. Our client, of course, is privy to the terms of the sale with their customer. However, our client would not be privy to the terms of the sale between the Iowa customer and their instate customer.

Given the above discussion of the third-party drop shipment, we request your guidance with the following questions:

Question #1 - Resale Documentation

Regarding the sale between our client and their customer, would you accept a resale/exemption certificate from the client's customer's home state? Alternatively, would you accept a resale/exemption certificate from your jurisdiction, but bearing the client's customer's home state tax registration?

Question #2 - Third-party Self-assesses Tax

In cases where the third-party is able to provide documentation that tax was self-assessed and paid to your jurisdiction, would this documentation along with our client's customer's home state resale/exemption certificate be sufficient documentation regarding our client's collection obligation with their out-of-state customer?

Question #3 - Third-party Exemption Availability

In cases where the third-party is able to provide an exemption certificate (e.g., manufacturing, resale, research and development, etc.) would that certificate along with a resale/exemption certificate from our client's customer's home state certificate be sufficient documentation regarding our client's collection obligation between their out-of-state customer?

We very much appreciate your time in responding to our questions, along with any elaboration or citations that you can offer in your reply. If additional facts or discussion is necessary for your consideration, please contact me.

DEPARTMENT'S RESPONSE

For general information regarding drop shipments and resale certificates we refer you to the Department's regulations regarding Drop Shipments at 86 Ill. Adm. Code 130.225, and Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale at 86 Ill. Adm. Code 130.1405. These regulations are available on the Department's website. The Department's letters regarding drop shipments and resale certificates are also available there for review.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
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